IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 13945 of 2007(I)

PETITIONER:

MANOJ LAL,
ELANJIKKAL, VELLAKINAR WARD, ALAPPUZHA.

BY ADV. SRI.R.AZAD BABU

RESPONDENTS:
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1. ALAPPUZHA MUNICIPALITY, REPRESENTED BY
ITS SECRETARY, MUNICIPAL OFFICE, ALAPPUZHA.

ADDITIONAL RESPONDENT

2. REMA RADHAKRISHNAN
W/O RADHAKRISHNAN NAIR
AGED 44 YEARS, "RAGHAM"
VELLAKINAR WARD, ALAPPUZHA

Additional R2 is impleaded vide order dtd. 04-07-2007 in I.A.No.6728/07

BY ADV. SRI.M.K.CHANDRA MOHANDAS, SC APL.MTY.
SRI.S.SANAL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.C.NO.13945/07

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE PLAINT IN O.S.NO.799/05 FILED BEFORE THE MUNSIFF COURT, ALAPPUZHA

EXT.P2 TRUE COPY OF THE ORDER OF THE TRIBUNAL IN APPEAL NO. 171 OF 2006 DTD. 6-6-06

EXT.P3 TRUE COPY OF THE ORDER OF THE RESPONDENT DTD. 16-11-06

EXT.P4 TRUE COPY OF THE ORDER OF THE TRIBUNAL IN APPEAL NO. 462 OF 2006 DTD. 25-1-07

RESPONDENT'S EXHIBITS

EXT.R2(A) TRUE COPY OF THE PLAN APPROVED BY THE MUNICIPALITY FOR CONSTRUCTION OF BUILDING IN THE PETITIONER'S PROPERTY.

EXT.R2(B) TRUE COPY OF THE COMMISSION REPORT IN O.S.NO.794/05 OF MUNSIFF'S COURT, ALAPPUZHA DTD. 13-12-2005

EXT.R2(C) COPY OF THE APPLICATION FOR MANDATORY INJUNCTION IN O.S.NO.794 OF 2005 OF MUNSIFF'S COURT, ALAPPUZHA DTD. NIL

EXT.R2(D) COPY OF THE APPLICATION FILED UNDER ORDER 39, RULE 2 A IN O.S.NO.794 OF 2005 OF THE MUNSIFF'S COURT, ALAPPUZHA DTD. NIL

EXT.R2(E) COPY OF THE REPORT OF THE COMMISSIONER DTD. 29-3-06

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 13945 OF 2007

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Dated this the 7th day of August, 2007

JUDGMENT

Petitioner challenges Ext.P3 and P4. Ext.P3 is an order passed by the respondent-Municipality directing the petitioner to demolish the septic tank. Petitioner challenged the same before the Tribunal which has rejected the appeal vide Ext.P4. In fact according to the petitioner in the earlier round of litigation Ext.P2 judgment of the Tribunal was rendered and he would point out that the Tribunal had directed to pass fresh orders after considering the possibility of regularisation invoking the proviso to Section 406(1)(iii).

2. At the time of hearing, learned counsel for the petitioner submits that a decision may be taken on the question whether the construction in question can be regularised.

3. I heard learned counsel for the respondents also. The writ petition is disposed of as follows:

If the petitioner files an application before the respondent

seeking regularisation of the construction in question, the respondent will consider and take a decision thereon in accordance with law with opportunity of hearing to the petitioner and also the additional second respondent within a period of one month from the date of receipt of the application seeking regularisation.

(K.M.JOSEPH, JUDGE)

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